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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/089,481	03/28/2002	John R Ramun	2005-020399	9653

7590 04/22/2004
Richard L Byrne
700 Koppers Building
436 Seventh Avenue
Pittsburgh, PA 15219-1818

EXAMINER

SELF, SHELLEY M

ART UNIT	PAPER NUMBER
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3725

DATE MAILED: 04/22/2004

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Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/089,481

Applicant(s)

RAMUN, JOHN R

Examiner

Shelley Self

Art Unit

3725

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 16 January 2004.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-9,30-39,58-63 and 72-75 is/are pending in the application.
- 4a) Of the above claim(s) 10-29,40-57 and 64-71 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-4,6,8,9,30-34,36-39,58-63 and 72-75 is/are rejected.
- 7) ☐ Claim(s) 5,7 and 35 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on _____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449) Paper No(s) 3.
- 4) ☐ Interview Summary (PTO-413) Paper No(s). _____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other:

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DETAILED ACTION

Election/Restrictions

Applicant's election with traverse of the invention of Group I (clms. 1-9, 30-39, 58-63 and 72-75) in Paper No. 6 is acknowledged. The traversal is on the ground(s) that the inventions contain the same technical features and that the searches required would overlap and therefore no undue burden on the Examiner exists. This is not found persuasive because the inventions are separable for the reasons noted in the previous Office Action.

Claims 10-29, 40-57, 64-71 are withdrawn from further consideration pursuant to 37 CFR 1.142(b), as being drawn to a nonelected invention, there being no allowable generic or linking claim. Applicant timely traversed the restriction (election) requirement in Paper No. 6.

The requirement is still deemed proper and is therefore made FINAL.

Specification

This application does not contain an abstract of the disclosure as required by 37 CFR 1.72(b). An abstract on a separate sheet is required.

Claim Rejections - 35 USC § 112

The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

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Claims 1-9 are rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the enablement requirement. The claim(s) contains subject matter, which was not described in the specification in such a way as to enable one skilled in the art to which it pertains, or with which it is most nearly connected, to make and/or use the invention. The specification fails to provide support for the term, "*guide slot*", i.e. there is no antecedent basis for the term "*guide slot*".

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter, which the applicant regards as his invention.

Claims 4, 34 and 38 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. The term "quick change is relative" and therefore it is unclear what is meant by a "quick change assembly".

With regard to claim 38, there is no antecedent basis for the term, "*the piston cylinder assembly*"; it is unclear whether "*the piston cylinder assembly*" refers to the hydraulic cylinder or some other cylinder assembly. Clarification is required.

With regard to claim 39, there is no antecedent basis for the term, "*the piston rod*".
Correction is required.

Claim Rejections - 35 USC § 102

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

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Claims 1-4, 6, 9 and 58-63 are rejected under 35 U.S.C. 102(b) as being anticipated by Tagawa (5,636,802). With regard to claims 1, 58-60 and 63, Tagawa discloses a demolition tool comprising a universal body (fig. 1) adapted to be attached to demolition equipment including a guide slot (12), a pair of pivotable blades (2a, 2b) removably attached to the body (8), at least one linkage (6) attached to each blade, slide member (13,18) received within the guide slot (12), with each linkage attached to the slide member, a piston cylinder (4) coupled to the slide member for moving the slide member and blades.

With regard to claim 2 and 61, Tagawa disclose a common pivot pin (18) connecting each linkage to the slide member (13).

With regard to claims 3 and 61, Tagawa discloses the common pivot pin aligned with a piston rod of the piston cylinder arrangement (fig. 3).

With regard to claim 4, as best as can be understood, Tagawa discloses a quick-change assembly (8, 30, 40).

With regard to claim 6, Tagawa discloses a combined hydraulic cylinder (4) and rotary joint (19, 20).

With regard to claim 9, Tagawa disclose a rotary coupling (19)

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

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Claims 8, 30-39, and 72-75 are rejected under 35 U.S.C. 103(a) as being unpatentable over Tagawa (5,636,802) in view of LaBounty et al. (5,044,569). With regard to claim 8 and 74 Tagawa does not disclose removable inserts. LaBounty teaches in a similar art the use of a removable inserts (111) in cooperation with a demolition tool so as to easily replace dull blades. Because the references are from a similar art, it would have been obvious at the time of the invention to one having ordinary skill in the art to replace Tagawa's blade inserts (10) with removable/replaceable inserts as taught by LaBounty so as to efficiently replace dull/worn blades.

With regard to claims 30 and 72, Tagawa discloses a heavy duty shear comprising a body, pivotable blades (2a, 2b), at least on e cylinder (4) at least one of the blades include a first cutting portion (10a), piercing tip (7a, 7a', 7b), second cutting portion (9) between the piercing tip and first cutting portion. Tagawa does not disclose the piercing tip to be replaceable. LaBounty teaches in a similar art the use of a replaceable piercing tip (col. 3, lines 27-28). LaBounty teaches this construction for ease of replacement. It would have been obvious at the time of the invention to one having ordinary skill in the art to replace Tagawa's piercing tip (7a, 7a', 7b) with a replaceable piercing tip as taught by LaBounty for ease of replacement.

With regard to claims 31-34 and 73 see above with references to claims 1-4.

With regard to claim 36, the body includes a bearing housing (5), a yoke, a pair of sides (figs. 2-4), guide slot (12) and slide member (13, 18).

With regard to claim 37 Tagawa disclose pivotably attached yoke (3) and wherein the pivotable sides are moved to provide access to the slide member (figs. 3, 4).

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With regard to claims 38 and 39, as best as can be understood, Tagawa disclose a hydraulic cylinder (4) coupled to the slide member (13, 18) for moving the slide, a trunnion (17) attaching the piston cylinder.

Allowable Subject Matter

Claims 5, 7 and 35 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims and if any 35 U.S.C. 112 rejections were overcome.

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Shelley Self whose telephone number is (703) 305-5299. The examiner can normally be reached Mon-Fri from 8:30am to 5:00pm. If attempts to reach the examiner by telephone are unsuccessful, the examiner's Supervisor, Allen Ostrager can be reached at (703) 308-3136. The fax phone numbers for the organization where this application or proceeding is assigned are (703) 872-9306 for regular and After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 308-1148.

SSelf
April 13, 2004


ALLEN OSTRAGER
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 3700